

PATENT

Attorney Docket No. 23853A

5,897,880. In particular, the Official Action states the following, in relevant part:

Claims of '804 are drawn to a method of treating pain in an animal for a sustained period of time, which comprises topically applying to said animal a gelled composition comprising a therapeutically effective dose of a drug for treating pain, said drug being uniformly distributed in a polymer matrix which is suspended in a liquid medium, wherein the polymer matrix contains sodium hyaluronate combined with a nonionic polymer. '880 discloses a topical gelled composition comprising an optional drug dispensed within a polymer matrix and treatments with the complex. '880 reads 'in addition to treating disorders associated with pain, the preparations of this invention may be used to treat wide variety of dermatological disorders.' Exemplary disorders include dermatitis conditions such as contact dermatitis, atopic dermatitis, etc. Other disorders such as pressure sores are also suitable for such treatment. '880 also discloses a wide variety of medicaments which may be administered topically may be used in the said delivery system. These medicaments include antibiotics including amediodices, broad and medium spectrum, fungal medicaments and agents such as erythromycin, penicillin and cephalosporin, also vitamins such as B complexes, vitamin C, vitamin B12 and folic acid. Therefore, it would have been obvious to one of ordinary skill in the art to substitute an antibiotic agent for a pain medication because it is disclosed that all the named medicaments are suitable for incorporation in the said matrix.

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided that the conflicting application or patent is shown to be commonly owned with this application.

Applicants are concurrently filing a Terminal Disclaimer in compliance with 37 CFR 1.321(c) over US Patent No. 6,120,804, which is commonly owned with this application, thereby obviating the